

REMARKS

At the outset, the Applicants wish to thank Patent Examiner Christopher P. Jones for the many courtesies extended to the undersigned attorney during the Telephone Interview on May 13, 2009. The substance of this Interview is set forth in the Examiner Interview Summary, and in this Amendment.

The Applicants comment upon the prior art rejection of the claims as follows, and upon the formal rejection of the claims as follows.

The primary reference is the *Pittel U.S. Patent No. 5,861,050*. In column 1, lines 55-65, *Pittel* states that the phase change material is hermetically contained in an encapsulation and that the encapsulation is in a heat exchange relationship with solid adsorbant. Then, in column 3, in lines 45 to 50, *Pittel* further teaches that the encapsulation of the phase change material is within a plurality of elongated hollow

members (25) that are connected to the bottom wall (13) and which contain phase change material. Furthermore, in column 5, beginning in line 5 through line 30, *Pittel* lists various suitable phase change materials and in column 5 in lines 25 to 30 indicates that these phase change materials may be used alone, or may also be used in combination, wherein two or more of the phase change materials are used together which exhibit differing transition temperatures.

However, *Pittel* fails to teach or suggest, having two phase change materials wherein there is no teaching of using the two different phase change materials separately with each phase change material in a different location, as is now specified in new claim 20, which is included with the present Amendment.

The secondary reference *Yamafuji*, which is *U.S. Publication No. US 2001/0020418*, has no teaching or suggest of using phase change materials. *Yamafuji* merely discusses the use of adsorbant

material (12) and (13) which includes particles of activated charcoal mixed with a binder material. Please see paragraph [0042]. *Yamafuji* then on page 4, in paragraph [0048] states that it is important that the second adsorbant material (13) which is disposed on the side of the second end of the gas passage should have higher specific heat than the first adsorbant (12), which is disposed on the side of the first end of the gas passage.

Yamafuji in paragraph [0054] discloses that the first adsorbant material (12a) has the lower specific heat. The second adsorbant material (13B) has the higher specific heat.

Yamafuji in paragraph [0057] states that the adsorbant material is divided into two portions, one with the lower specific heat (i.e., the first adsorbant material) and the other with the higher specific heat (i.e., the second adsorbant material) is in the gas passage.

However, in the teachings of *Yamafuji*, there is no teaching or disclosure of phase change material. *Yamafuji* merely discloses dividing the adsorbant material into two portions with one of the portions having a lower specific heat and with the other portion having a higher specific heat for the adsorbant material.

The Patent Examiner in the Office Action has apparently tried to utilize the teachings of *Yamafuji* to modify the disclosure of *Pittel* so as to reject the claims in the present patent application.

For this reason, the following amendments to the claims are being presented. Specifically, claim 16 is being cancelled. In claim 18, there is an amendment to indicate that the volume of the filler material is based upon the total volume, in order to overcome the formal objection to this claim.

In new claim 20 there is a combination of the subject matter from pending claims 13, 15, and 16. By combining these limitations into one claim, there is now a claim directed to having two separate chambers located in a specific manner and containing separate phase change material uniquely positioned in each one of the separate chambers. Thus, the upstream chamber (1) would contain the material having the relatively lower phase change temperature, whereas the downstream chamber (2) contains the phase change material which has the relatively higher phase change temperature.

As was discussed during the Telephone Interview, in summary, the Patent Examiner specifically believes that claim 20 will be allowable over all of the prior art of record provided that claim 20 recites the terminology "in chamber (1) is arranged phase change material consisting of (7'), while in chamber (2) is arranged phase change material consisting of (7")."

The Patent Examiner has also stated that certain claims that are broader in scope than claim 20 need to be cancelled, which would include the cancellation of claims 13, 15, and 16. Also, it will be necessary to change the dependency of claims 14, 17, 18, and 19 to depend now from independent claim 20, rather than from one of the cancelled claims.

The Patent Examiner has stated that the U.S.P.T.O. will enter this Amendment even though it is filed after a Final Rejection, provided that the Applicant agrees to carry out these amendments that were discussed and lead to the agreement reached during the Telephone Interview.

In addition, it is proposed to amend the paragraph bridging pages 7 to 8 of the present Specification to insert the terminology "based upon the total volume" which will provide support for the language which is being added to dependent claim 18.

No new matter has been introduced by this Amendment.

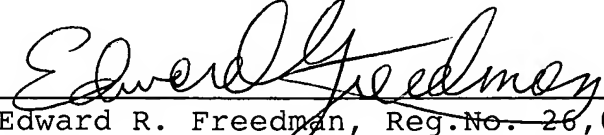
For all the reasons set forth above, all the claims are in complete compliance with all the requirements of 35 U.S.C. 112. Withdrawal of this ground of rejection is respectfully requested.

For all of the above reasons, the present invention, and all the claims, are believed to be patentable under 35 U.S.C. 103 over all the prior art applied by the Patent Examiner.

Withdrawal of this ground of rejection is respectfully requested. A prompt notification of allowability is respectfully requested.

Respectfully submitted,

Frank REINERS ET AL



COLLARD & ROE, P.C.

1077 Northern Boulevard
Roslyn, New York 11576
(516) 365-9802

Edward R. Freedman, Reg.No. 26,048
Frederick J. Dorchak, Reg. No. 29, 298
Attorneys for Applicants

Enclosure: Petition for one Month Extension of Time for Large Entity

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on June 12, 2009.


Amy Klein